

AMENDED IN SENATE AUGUST 12, 2013

AMENDED IN SENATE JUNE 13, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1132

Introduced by Assembly Member Eggman

February 22, 2013

An act to amend Sections 14323, 14325, 14903, 15053, and 15061 of the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1132, as amended, Eggman. Agriculture: livestock drugs and commercial feed.

Existing law regulates the sale of livestock drugs by the Secretary of Food and Agriculture, and prohibits a person from selling a restricted drug at retail unless he or she holds a license. Existing law *authorizes a person to file an application for a license with the secretary and requires that the application be accompanied by an application fee of \$25. Existing law* establishes a license renewal fee of \$25 per year, and provides for an additional penalty of \$10 if the fee is not paid by the required date. The funds collected are deposited into the Department of Food and Agriculture Fund, and are continuously appropriated for purposes of the provisions regulating livestock drugs.

This bill would increase the amount of ~~both~~ the *application fee, the renewal fee fee*, and the penalty fee to \$50. By increasing the fees deposited into a continuously appropriated fund, the bill would make an appropriation.

Existing law requires the secretary to establish, by regulation, good manufacturing practices as are necessary to carry out the purposes of the provisions regulating commercial feed.

This bill would also require the secretary to establish regulations for hazard analysis and preventive control measures as are necessary to carry out those provisions.

Existing law requires that a license be obtained from the secretary for each location where commercial feed is manufactured, distributed, sold, or stored for later sale. Existing law requires each license application to be accompanied by an annual fee specified by the Department of Food and Agriculture for each location of at least \$100, but not exceeding \$600, with the specific fee to be set by the secretary upon recommendation of the Feed Inspection Advisory Board. Beginning on January 1, 2015, the license fee is required to be \$100 for each location. The funds collected are deposited into the Department of Food and Agriculture Fund and are continuously appropriated for purposes relating to the manufacture and distribution of commercial feed.

This bill would extend the date on which the new fee requirement of \$100 for each location would take effect from January 1, 2015, to January 1, 2020. By extending the time during which a higher license fee may be applied, the bill would increase the fees that are deposited into a continuously appropriated fund, thereby making an appropriation.

Existing law establishes an inspection tonnage tax for commercial feed, as specified, with a maximum rate of \$0.15 per ton. The funds collected are deposited into the Department of Food and Agriculture Fund, and are continuously appropriated for purposes of the provisions regulating commercial feed. Existing law, until January 1, 2015, authorizes the secretary to designate a specified amount of the tonnage taxes collected to provide funding for research and education regarding the safe manufacture, distribution, and use of commercial feed.

This bill would extend the secretary's authority to designate a specified amount of the tonnage taxes collected for those purposes from January 1, 2015, to January 1, 2020. This would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature. By extending the purposes for which funds in a continuously appropriated fund may be spent, the bill would make an appropriation.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 14323 of the Food and Agricultural Code*
2 *is amended to read:*

3 14323. The application shall be accompanied by an application
4 fee of ~~twenty-five dollars (\$25)~~ *fifty dollars (\$50)*. The fee is not
5 refundable if the license is refused.

6 ~~SECTION 1.~~

7 **SEC. 2.** Section 14325 of the Food and Agricultural Code is
8 amended to read:

9 14325. The fee for the renewal application for a license is fifty
10 dollars (\$50) per year, payable on or before January 31 of each
11 year. If the fee is not paid by that date, a penalty of fifty dollars
12 (\$50) shall be added to the fee.

13 ~~SEC. 2.~~

14 **SEC. 3.** Section 14903 of the Food and Agricultural Code is
15 amended to read:

16 14903. The secretary shall establish, by regulation, good
17 manufacturing practices, hazard analysis, and preventive control
18 measures as the secretary determines are reasonably necessary to
19 carry out the purposes of this chapter. The good manufacturing
20 practices, hazard analysis, and preventive control measures,
21 including verification and validation activities for all commercial
22 feed and additives, including medicated feed premixes and
23 medicated feeds, shall be based upon federal food and drug laws
24 and regulations, unless the secretary determines that the federal
25 laws and regulations are not appropriate to the conditions that exist
26 in this state. The regulations adopted pursuant to this section shall
27 ensure that drug usage under this chapter shall not conflict with
28 the provisions of Chapter 4 (commencing with Section 14200).

29 ~~SEC. 3.~~

30 **SEC. 4.** Section 15053 of the Food and Agricultural Code is
31 amended to read:

32 15053. (a) Each application for a license shall be accompanied
33 by an annual fee specified by the department for each location.
34 Beginning on January 1, 2007, the minimum license fee shall be
35 one hundred dollars (\$100) for each location and the maximum

1 license fee for each location shall not exceed six hundred dollars
2 (\$600) for each location with the specific fee to be set by the
3 secretary upon recommendation of the Feed Inspection Advisory
4 Board. Those licensees with feed licenses on the effective date of
5 the bill who have previously paid their license fees for the then
6 current fiscal year shall not be subject to any new fees until their
7 licenses are renewed. Beginning January 1, 2020, the license fee
8 shall be one hundred dollars (\$100) for each location. Those
9 licensees with feed licenses on that date who have previously paid
10 their license fees for the then current fiscal year shall not be subject
11 to any new license fees until their licenses are renewed.

12 (b) Revenues generated from license fees shall be used to
13 replenish feed inspection program reserves to a minimum of 25
14 percent of program expenditures, after which point some of the
15 revenues from these fees shall be used to reduce feed tonnage taxes
16 provided for in this chapter upon recommendation of the Feed
17 Inspection Advisory Board.

18 ~~SEC. 4.~~

19 *SEC. 5.* Section 15061 of the Food and Agricultural Code, as
20 amended by Section 74 of Chapter 328 of the Statutes of 2010, is
21 amended to read:

22 15061. (a) An inspection tonnage tax at the maximum rate of
23 fifteen cents (\$0.15) per ton of commercial feed sold, except whole
24 grains, and whole hays when unmixed, shall be paid to the secretary
25 by any person who distributes commercial feed to a
26 consumer-buyer in this state. The distributor shall also pay an
27 inspection tonnage tax for purchased commercial feed fed to his
28 or her own animals.

29 (b) The secretary may, based upon a finding and
30 recommendation of the Feed Inspection Advisory Board, determine
31 the specific rate necessary to provide the revenue needed to carry
32 out the provisions of this chapter. The secretary and the Feed
33 Inspection Advisory Board shall not exceed the maximum tonnage
34 rate established by this section. Setting the tonnage tax rate shall
35 not be subject to Chapter 3.5 (commencing with Section 11340)
36 of Part 1 of Division 3 of Title 2 of the Government Code.

37 (c) The secretary may, based upon a finding and
38 recommendation of the Feed Inspection Advisory Board, designate
39 15 percent of the tonnage taxes collected, or two hundred thousand
40 dollars (\$200,000), whichever amount is greater, to provide funding

1 for research and education regarding the safe manufacture,
2 distribution, and use of commercial feed. These funds may only
3 be spent on activities approved by the Feed Inspection Advisory
4 Board, with approval being made before any expenditure.

5 (d) This section shall remain in effect only until January 1, 2020,
6 and as of that date is repealed, unless a later enacted statute, that
7 is enacted before January 1, 2020, deletes or extends that date.

8 ~~SEC. 5.~~

9 *SEC. 6.* Section 15061 of the Food and Agricultural Code, as
10 amended by Section 3 of Chapter 245 of the Statutes of 2009, is
11 amended to read:

12 15061. (a) An inspection tonnage tax at the maximum rate of
13 fifteen cents (\$0.15) per ton of commercial feed sold, except whole
14 grains, and whole hays when unmixed, shall be paid to the secretary
15 by any person who distributes commercial feed to a
16 consumer-buyer in this state. The distributor shall also pay an
17 inspection tonnage tax for purchased commercial feed fed to his
18 or her own animals.

19 (b) The secretary may, based upon a finding and
20 recommendation of the Feed Inspection Advisory Board, determine
21 the specific rate necessary to provide the revenue needed to carry
22 out the provisions of this chapter. The secretary and the Feed
23 Inspection Advisory Board shall not exceed the maximum tonnage
24 rate established by this section. Setting the tonnage tax rate shall
25 not be subject to Chapter 3.5 (commencing with Section 11340)
26 of Part 1 of Division 3 of Title 2 of the Government Code.

27 (c) This section shall become operative on January 1, 2020.